

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK**

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**WENDY LOU WYTRWA,**

**Plaintiff,**

**v.**

**5:15-CV-0286 (BKS/ATB)**

**CAROLYN W. COLVIN, ACTING  
COMMISSIONER OF SOCIAL SECURITY,**

**Defendant.**

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**Appearances:**

Howard D. Olinsky  
Olinsky Law Group  
One Park Place  
300 S. State Street, Ste. 420  
Syracuse, NY 13202  
For Plaintiff

Richard S. Hartunian, United States Attorney  
David Brown, Special Assistant United States Attorney  
Social Security Administration  
Office of Regional General Counsel  
Region II  
26 Federal Plaza - Room 3904  
New York, NY 10278  
For Defendant

**Hon. Brenda K. Sannes, United States District Judge:**

**MEMORANDUM-DECISION AND ORDER**

**INTRODUCTION**

Plaintiff Wendy Lou Wytrwa filed this action under 42 U.S.C. §§ 405(g) and 1383(c)(3) seeking review of Commissioner of Social Security's denial of her applications for Supplemental Security Income Benefits and Disability Insurance Benefits. Dkt. No. 1. This matter was referred

to United States Magistrate Judge Andrew T. Baxter for a Report-Recommendation. Dkt. No. 3; Local Rule 73.2(d). On April 28, 2018, after reviewing the parties' briefs, Dkt. Nos. 11, 14, and the Administrative Transcript, Dkt. No. 9, Magistrate Judge Baxter issued a Report-Recommendation recommending that the Commissioner's decision be affirmed and plaintiff's complaint be dismissed. Dkt. No. 15, p. 23. Magistrate Judge Baxter advised the parties that under 28 U.S.C. § 636(b)(1), they had "14 days within which to file written objections" to the Report-Recommendation and that "failure to object to th[e] report within 14 days will preclude appellate review." Dkt. No. 15, p. 23 (citing *Roldan v. Racette*, 984 F.2d 85 (2d Cir. 1993); 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72, 6(a), 6(e)).

### **DISCUSSION**

The Court reviews *de novo* those portions of the Magistrate Judge's findings and recommendations that have been properly preserved with a specific objection. *Petersen v. Astrue*, 2 F. Supp. 3d 223, 228-29 (N.D.N.Y. 2012); 28 U.S.C. § 636(b)(1)(C). Findings and recommendations as to which there was no properly preserved objection are reviewed for clear error. *Id.*

Neither of the parties has raised any objection to Magistrate Judge Baxter's Report-Recommendation. The Court has reviewed the Report-Recommendation for clear error and found none. Accordingly, it is

**ORDERED** that Magistrate Judge Baxter's Report-Recommendation (Dkt. No. 15) is **ADOPTED** in all respects; and it is further

**ORDERED** that the Commissioner's decision is **AFFIRMED**; and it is further

**ORDERED** that the Complaint (Dkt. No. 1) is **DISMISSED with prejudice**; and it is further

**ORDERED** that the Clerk of the Court is directed to close this case.

**IT IS SO ORDERED.**

Dated: May 19, 2016

A handwritten signature in black ink, reading "Brenda K Sannes", written over a horizontal line.

Brenda K. Sannes  
U.S. District Judge